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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,254	07/09/2001	Michelle Zhao	03226.535001;P6054	8275
32615	7590	03/06/2006	EXAMINER	
OSHA LIANG L.L.P./SUN 1221 MCKINNEY, SUITE 2800 HOUSTON, TX 77010			DARROW, JUSTIN T	
			ART UNIT	PAPER NUMBER
			2132	

DATE MAILED: 03/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/902,254	ZHAO, MICHELLE
	<b>Examiner</b> Justin T. Darrow	<b>Art Unit</b> 2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 20 December 2005.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-16 is/are allowed.
- 6) Claim(s) 17-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 09 July 2001 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

1. Claims 1-20 have been presented for examination. Claims 1, 2, 9, and 17-20 have been amended in an amendment filed 12/20/2005. Claims 1-20 have been examined.

### *Response to Arguments*

2. Applicant's arguments filed 12/20/2005 concerning the rejection of claims 17-20 under 35 U.S.C. 101 have been fully considered but they are not persuasive. Claims 17-20 have been amended to recite a computer-readable medium containing a data structure for a digital revocation list (CRL). As discussed more fully below in the rejection, although the amended claims put the invention in tangible form, a computer readable medium or an electronic communication medium containing a novel data structure containing information is merely nonfunctional descriptive material not claimed to produce a useful, concrete, and tangible result.

*See* Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility Annex IV(b), Oct. 26, 2005, at

[http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101\\_20051026.pdf](http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101_20051026.pdf),  
1300 OG 142 (Nov. 22, 2005); *State Street Bank & Trust Co. v. Signature Financial Group Inc.*,  
47 USPQ2d 1596, 1602 (Fed. Cir. 1998).

### *Claim Rejections - 35 USC § 101*

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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4. Claims 17-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 17-20 are drawn to a computer-readable medium containing a data structure for a digital revocation list (CRL). “Certain types of descriptive material, such as . . . mere arrangements or compilations of facts or data, without any functional interrelationship is not a process, machine, manufacture or composition of matter.” Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility Annex IV(b), Oct. 26, 2005, at

[http://www.uspto.gov/web/offices/pac/dapp/opla/preognitice/guidelines101\\_20051026.pdf](http://www.uspto.gov/web/offices/pac/dapp/opla/preognitice/guidelines101_20051026.pdf),

1300 OG 142 (Nov. 22, 2005). Claims 17-20 are drawn to a computer readable medium containing a data structure comprising a list of digital certificates, a CRL identifier, and an attribute whether a CRL is the latest CRL. Because the data structure contains merely an arrangement of facts or data, it is not in any statutory class and thus rejected under 35 U.S.C. 101. *Id.* The claimed data structure fails to recite in the claim “[a] physical or logical relationship among data elements, designed to support specific data manipulation functions.” *In re Warmerdam*, 31 USPQ2d 1754, 1760 (Fed. Cir. 1994) (citing *IEEE Standard Computer Dictionary* (1991)). The data structure is merely a description of facts comprising nonfunctional descriptive material. *See id.* The fact that the data structure is claimed to contained in a computer-readable medium does not make claims 17-20 statutory, even though a computer-readable medium is a manufacture. *In re Lowry*, 32 USPQ2d 1031, 1033 (Fed. Cir. 1994) (noting, “The Board reversed the 35 U.S.C. Section 101 rejection [after it] found that claims . . . directed to a memory containing stored information, as a whole, recited an article of manufacture.”). “The question of whether a claim encompasses statutory subject matter should

not focus on which of the four categories of subject matter a claim is directed to -- process, machine, manufacture, or composition of matter -- but rather on the essential characteristics of the subject matter, in particular, its practical utility.” *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 47 USPQ2d 1596, 1602 (Fed. Cir. 1998). Because the computer-readable medium containing a data structure in any of claims 17-19 is not claimed to “[produce] a ‘useful, concrete, and tangible result,’ [it] renders it [nonstatutory] subject matter.” *Id.* (citing *In re Alappat*, 31 USPQ2d 1545, 1557 (Fed. Cir. 1994) (en banc)). Additionally, a data structure containing a useful, concrete, and tangible result, such as wireless electronic mail specially formatted by a patented process is not product which is made under that patented process. *See NTP Inc. v. Research In Motion Ltd.*, 75 USPQ2d 1763, 1794-95 (Fed. Cir. 2005). Thus, such a data structure, whether contained in a computer-readable medium or an electric communication medium, is not a process nor a product, including a machine, manufacture, or composition of matter. See 1 D. Chisum, *Patents* § 1.02 (1994). Therefore, the rejection of claims 17-20 under 35 U.S.C. 101 is maintained.

#### ***Allowable Subject Matter***

5. Claims 1-16 are allowed.
6. The following is an examiner’s statement of reasons for allowance:

Claims 1-8 are drawn to a method of creating a digital certificate revocation list (CRL).

The closest prior art, Perlman et al., U.S. Patent No. 5,687,235 A, discloses a similar method. Although this reference describes timestamping a CRL to indicate the latest certificate revocation date of certificates included in the CRL (see column 8, lines 61-64), it neither teaches nor

suggests storing an attribute indicating the CRL as being the latest as a part of the latest CRL.

This particular step explicitly recited in independent claim 1, renders claims 1-8 allowable.

Claims 9-16 are drawn to a method of using a digital certificate revocation list (CRL).

The closest prior art, Perlman et al., U.S. Patent No. 5,687,235 A, discloses a similar method.

Although this reference describes timestamping a CRL to indicate the latest certificate revocation date of certificates included in the CRL (see column 8, lines 61-64), it neither shows nor implies receiving a second CRL comprising a second attribute for indicating whether the second CRL is the latest CRL wherein the second CRL is the latest CRL if changes have been made to the list of the second CRL compared to the list of first CRL. This distinct step explicitly recited in independent claim 9, renders claims 9-16 allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Telephone Inquiry Contacts***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin T. Darrow whose telephone number is (571) 272-3801, and whose electronic mail address is justin.darrow@uspto.gov. The examiner can normally be reached Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barrón, Jr., can be reached at (571) 272-3799.

The fax number for Formal or Official faxes to Technology Center 2100 is 571-273-8300. In order for a formal paper transmitted by fax to be entered into the application file, the paper and/or fax cover sheet must be signed by a representative for the applicant. Faxed formal papers for application file entry, such as amendments adding claims, extensions of time, and statutory disclaimers for which fees must be charged before entry, must be transmitted with an authorization to charge a deposit account to cover such fees. It is also recommended that the cover sheet for the fax of a formal paper have printed "**OFFICIAL FAX**". Formal papers transmitted by fax usually require three business days for entry into the application file and consideration by the examiner. Formal or Official faxes including amendments after final rejection (37 CFR 1.116) should be submitted to 571-273-8300 for expedited entry into the

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application file. It is further recommended that the cover sheet for the fax containing an amendment after final rejection have printed not only “**OFFICIAL FAX**” but also “**AMENDMENT AFTER FINAL**”.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-2100.

March 5, 2006



JUSTIN T. DARROW  
PRIMARY EXAMINER  
TECHNOLOGY CENTER 2100